

1 MORRIS PICKERING & PETERSON

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9 Attorneys for Defendants

10 Caesars Palace Corp. and

11 Caesars Palace Realty Corp.

12 UNITED STATES DISTRICT COURT

13 DISTRICT OF NEVADA

14 PHASE II CHIN, LLC and LOVE &  
15 MONEY, LLC (formerly dba  
16 O.P.M.L.V., LLC),

17 Plaintiffs,

18 v.

19 FORUM SHOPS, LLC, FORUM  
20 DEVELOPERS LIMITED  
21 PARTNERSHIP, SIMON PROPERTY  
22 GROUP LIMITED PARTNERSHIP,  
23 SIMON PROPERTY GROUP, INC.,  
24 CAESARS PALACE CORP., and  
25 CAESARS PALACE REALTY CORP.,

26 Defendants.

27 ) CASE NO.

28 NOTICE OF REMOVAL

29 Defendants Caesars Palace Corp. and Caesars Palace Realty Corp.  
30 ("Caesars Defendants") hereby remove the state court action entitled "Phase II  
31 Chin, LLC and Love & Money, LLC (formerly dba O.P.M.L.V., LLC) v. Forum  
32 Shops, LLC, Forum Developers Limited Partnership, Simon Property Group  
33 Limited Partnership, Simon Property Group, Inc., Caesars Palace Corp, and  
34 Caesars Palace Realty Corp.," Case No. A554875, filed January 8, 2008, from the

1 Eighth Judicial District Court for the State of Nevada to this Court. The grounds  
2 for removal are:

3 1. The above-entitled action was commenced by the filing of a  
4 Complaint in the Eighth Judicial District Court for the State of Nevada on  
5 January 8, 2008. A copy of the plaintiffs' Complaint is attached as Exhibit A.

6 2. Process was served on the Caesars Defendants on January 18,  
7 2008. Copies of the summonses issued to and served on the Caesars Defendants  
8 are attached as Exhibit B.

9 3. Count V of the Complaint and its associated ad damnum  
10 clause seek compensatory and punitive damages from all defendants pursuant to  
11 42 U.S.C. § 1981. Specifically, plaintiffs have labeled their Fifth Cause of Action,  
12 "Violation of 42 U.S.C. § 1981." In paragraph 90 of the Complaint, Ex. A, p. 23,  
13 plaintiffs allege that, "defendants, and each of them, separately and acting in  
14 concert, have discriminated against plaintiffs in the making, performance, and  
15 attempted termination of the Lease and Lease Amendment, and have interfered  
16 with [plaintiffs'] enjoyment of the benefits, privileges, terms, and conditions of  
17 those contracts, because of defendants' hostility to African-Americans in general,  
18 and to plaintiffs' African-American patrons in particular." On its face, Count V of  
19 the Complaint thus arises under the laws of the United States, specifically, 42  
20 U.S.C. § 1981.

21 4. Plaintiffs' claims for relief under 42 U.S.C. § 1981 lie within the  
22 original jurisdiction of this Court by virtue of 28 U.S.C. §§ 1331 and 1343(a)(4).

23 5. Removal jurisdiction exists pursuant to 28 U.S.C. § 1441, since  
24 it appears from the face of the Complaint that this is a "civil action of which th[is  
25 Court has] original jurisdiction founded on a claim or right arising under  
26 Constitution, treaties, or law of the United States . . ." *Id.* § 1441(b).

27 6. This Court has supplemental jurisdiction pursuant to 28 U.S.C.  
28 § 1367(a) over plaintiffs' remaining claims for "Declaratory Relief," "Interference

1 with Contractual Relations," "Interference with Prospective Business Advantage",  
2 "Injunctive Relief", "Breach of Lease", "Conspiracy," and "Breach of Implied  
3 Covenant of Good Faith and Fair Dealing" because these state-law-based claims  
4 (1) arise out of the same facts and circumstances as plaintiffs' 42 U.S.C. § 1981  
5 claim; and (2) are substantially related to, and properly determined with,  
6 plaintiffs' 42 U.S.C. § 1981 claim. Jurisdiction over these claims is also  
7 appropriate pursuant to 28 U.S.C. § 1441(c).

8 7. Venue is appropriate in the unofficial Southern Division of  
9 this Court pursuant to 28 U.S.C. §§ 1391(b) and (c) and 1441(a), and LR IA 8-1(a).

10 8. The remaining named defendants are Forum Shops, LLC,  
11 Forum Developers Limited Partnership, Simon Property Group Limited  
12 Partnership, and Simon Property Group, Inc. ("Forum Shops Defendants"). The  
13 earliest any of the Forum Shop Defendants was served is January 17, 2008. All of  
14 the Forum Shop Defendants who have been served consent to removal.

15 9. This notice of removal is timely filed within 30 days of any  
16 defendant's receipt, through service or otherwise, of the Complaint and  
17 summons. *See* 28 U.S.C. § 1446(b).  
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1                   10.    The Caesars Defendants are today filing a copy of this Notice  
2 of Removal with the Clerk of the Eighth Judicial District Court and serving it on  
3 counsel for plaintiffs, as required by 28 U.S.C. § 1446(d).  
4

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**CERTIFICATE OF SERVICE**

Pursuant to Fed. R. Civ. P. 5(b) and Section IV of District of Nevada  
Electronic Filing Procedures, I certify that I am an employee of MORRIS  
PICKERING & PETERSON, and that the following documents were served via  
electronic service: **NOTICE OF REMOVAL**

TO:

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Attorneys for Defendants  
Forum Shops, LLC, Forum Developers  
Limited Partnership, Simon Property  
Group Limited Partnership, and  
Simon Property Group, Inc.

DATED this 14 day of February, 2008.

By: Patricia Cannon